

PLANNED DEVELOPMENT PERMIT

FILE NO. PD20-003

LOCATION OF PROPERTY 1197 Lick Avenue, West side of Lick Avenue
Between West Floyd Street and Humboldt
Street (APN: 434-13-040)

ZONING DISTRICT A(PD) Planned Development (File No.
PDC18-025, Ordinance No. 30432)

GENERAL PLAN DESIGNATION Urban Residential

PROPOSED USE Planned Development Permit to allow the
demolition of a 11,400 square foot building
and construction of a mixed-use development
consisting of 569 residential units (Option A)
or 555 residential units (Option B) within
three buildings, up to 3,000 square feet of
child day care or commercial space and the
removal of 64 ordinance sized trees and 58
Non-Ordinance sized trees on a 6.96 gross-
acre site.

ENVIRONMENTAL STATUS Determination of Consistency with the
Mitigated Negative Declaration for the
Tamien Station Transit-Oriented
Development Project (Resolution No. 79567)

OWNER Santa Clara Valley Transportation Authority
3331 N. 1st Street, Building A
San José, CA 95134

APPLICANT UrbanCo Tamien, LLC
84 W Santa Clara St, #600
San José, CA 95113

FACTS AND FINDINGS:

The Director of Planning, Building, and Code Enforcement finds that the following are the relevant facts and findings regarding this proposed project:

1. **Site Description and Surrounding Uses.** The approximately 6.96-gross acre project site is bounded by Lick Avenue to the east, Tamien Station Park to the north (under construction), a vacant lot and the Skyline apartments to the south and Tamien Station to the west. Along Lick Avenue there is a mix of mostly residential uses with some commercial uses.

2. **Project Description.** This is a Planned Development Permit to allow the demolition of a 11,400 square foot building and construction of 569 residential units (Option A) or 555 residential units (Option B) within three buildings, up to 3,000 square feet of child day care or commerce space and the removal of 64 ordinance-sized trees and 58 non-ordinance size trees on an approximately 6.96 gross-acre site.

Option A

Option A is 569 units and consists of an Affordable housing/Commercial building of 135 units with up to 3,000 square feet of child care or commercial use; a Market-rate Building 1 consisting of 219 units (81 studio units, 98 one-bedroom units and 40 two-bedroom units) and a Market-rate Building 2 consisting of 215 units (73 studio units, 104 one-bedroom units and 38 two-bedroom units).

Option B

Option B is 555 units and consists of an Affordable housing/Commercial building of 135 units with up to 3,000 square feet of child care or commercial use; a Market-rate Building 1 consisting of 213 units (37 studio units, 132 one-bedroom units and 44 two-bedroom units) and a Market-rate Building 2 consisting of 207 units (25 studio units, 140 one-bedroom units and 42 two-bedroom units).

3. **General Plan.** The subject site has a designation of **Urban Residential** on the Land Use/Transportation Diagram of the Envision San José 2040 General Plan. This designation allows for medium density residential development and a fairly broad range of commercial uses, including retail, offices, hospitals, and private community gathering facilities, within identified Urban Villages or in areas in close proximity to Urban Villages. Permitted density in this land use development is 30-95 dwelling units/acre (DU/AC). Option A with 569 units on 6.13 net acres has a project density is 92.8 DU/AC. Option B with 555 units on 6.13 net acres has a project density of 90.5 DU/AC. The allowable density/intensity for the mixed-use portion of the development (Affordable Housing/Commercial Building) is determined using an allowable floor area ratio (FAR) of 1.0 to 4.0 to better address the urban form. The 135-unit affordable/commercial building with 3,000-sf of child day care or commercial uses has a FAR of 1.96. Both Options A and B are therefore consistent with the uses identified in the General Plan and density/intensity standards.

The project conforms to Major Strategy #3 – Focused Growth, of the General Plan, as well as the following goal and policies:

1. Major Strategy#3- Focused Growth: Strategically focus new growth into areas of San José that will enable the achievement of City goals for economic growth, fiscal sustainability and environmental stewardship and support the development of new, attractive urban neighborhoods. The Plan focuses significant growth, particularly to increase employment capacity, in areas surrounding the City's regional Employment Center, achieve fiscal sustainability, and to maximize the use of transit systems within the region.

Analysis: Strategy #3 focuses new growth capacity in specifically identified "Growth Areas," and the majority of the City is not planned for additional growth or intensification. This approach reflects limited availability of additional "infill" sites for development compatible with established neighborhood character, and the emphasis to reduce environmental impacts while fostering transit use and walkability. The proposed project is located in a "Growth

Area”, the Tamien Station Area Specific Plan (TSASP).

Goal H-1 Housing – Social Equity and Diversity: Provide housing throughout our City in a range of residential densities, especially at higher densities, and product types, including rental and for-sale housing, to address the needs of an economically, demographically, and culturally diverse population.

Housing Policy H-1.2: Facilitate the provision of housing sites and structures across location, type, price and status as rental or ownership that respond to the needs of all economic and demographic segments of the community including seniors, families, the homeless and individuals with special needs.

Analysis: This project includes 569 (Option A) or 555 (Option B) new residential units built in three buildings, including an affordable building of 135 units. This building is 100% affordable and dedicated to low-income individuals and families. The affordable building will include a mix of studios, one-bedroom, two-bedroom and three-bedroom units. The project would add to the existing diversity of housing in the area, which includes a mix of single-family homes and multifamily developments.

Land Use Policy LU-9.2: Facilitate the development of complete neighborhoods by allowing appropriate commercial uses within or adjacent to residential and mixed-use neighborhoods.

Analysis: The project includes 3,000-sf of day care or commercial uses that will complement the existing neighborhood. The site is in a neighborhood with single-family homes, multi-family developments, and other small businesses including restaurants.

Function Policy CD-2.10: Recognize that finite land area exists for development and that density supports neighborhood vitality and transit ridership. Use land use regulations to require compact, low-impact development that efficiently uses land planned for growth, especially for residential development which tends to have a longer life span. Strongly discourage small-lot and single-family detached residential product types in Growth Areas.

Analysis: The project’s density will either be: 92.8 dwelling units per acre (Option A) and 90.5 dwelling units per acre (Option B). The project is a higher-density residential project, located within the Tamien Station Area Specific Plan (TSASP) and immediately adjacent to the Tamien Light Rail Station.

Parking Strategies, TR-8.6: Allow reduced parking requirements for mixed-use developments and for developments providing shared parking or a comprehensive TDM program, or developments located near major transit hubs or within Urban Villages and other Growth Areas.

Analysis: Given the project’s proximity to the Tamien Light Rail Station and the use of a TDM Program, a 25% reduction of the required off-street parking spaces is granted. The project site’s proximity to Tamien Station will support the parking reduction and encourage residents and some employees of the day care/commercial space to walk and bicycle. The project will provide 145 bicycle parking spaces for residential and commercial uses.

4. **Tamien Station Area Specific Plan Conformance.** The project site is within the TSASP, which was adopted by City Council in 1995. The primary goal of the Tamien Station Area Specific Plan is to create a combination of land uses that will support and encourage transit use and reduce automobile use. The Specific Plan states that a key component of the plan is

high density residential uses located close to the Tamien Light Rail Station and Caltrain Station. The plan also strives to create a pedestrian-friendly environment through the provision of a combination of a retail and service uses and well-designed pedestrian and street amenities. The Specific Plan contains sub-area land use designations and design policies. The subject site is within the Transit Core subarea. The proposed project is in conformance as follows:

Vertical Mixed Use Commercial (p. 25): In the Transit Core Subarea, neighborhood serving commercial uses will be an important component of vertical mixed use development. The commercial uses to be located in this area should be small retail shops, services, or offices primarily designed to serve this population, but could also be oriented to attract potential customers generated by traffic on Alma Avenue.

Analysis: The proposed child care uses are an important element in the development and can serve the future tenants of development as well as Tamien Station transit users. A child care use was previously located on the site and it is anticipated that the proposed child care facility will continue to be of interest for transit users.

Design Policy 3: Building Orientation to Streets and Park (p. 28): Residential development within the Transit Core Subarea should have a strong street presence toward Lick Avenue and also orient to the proposed public park. Buildings should have front entries oriented towards this street or the park. Parking structures should not face Lick Avenue or the park.

Analysis: The site plan and elevations show a strong street presence on Lick Avenue through the use of well-articulated facades with street-facing entries, patios and balconies. Both the market-rate and affordable project include residential lobbies and leasing offices that front Lick Avenue.

Design Policy 4: Building Design (p. 28): Building design should promote a visually diverse and rich fabric, complement the existing neighborhood scale, and reinforce the pedestrian orientation of the Tamien Station Area. Architectural treatments of building facades and roofs should include sufficient articulation and variation.

Analysis: The elevations on both project alternatives include a high degree of articulation through the use of projections, variation in parapet height, material changes, balconies, glazing, and other design details. The mid-block plaza further enhances the urban character and complements the existing neighborhood scale along Lick Avenue.

5. **Planned Development Zoning Conformance.** The site is in the RM(PD) Planned Development Zoning District (PDC18-025). Subject to the Development Standards adopted as part of the rezoning, the RM(PD) Planned Development would require conformance with the following standards:

Building Height: The maximum height of any buildings is six stories and 80 feet above grade. There is a maximum of 90 feet for architectural elements, such as stairwells and corner/focal point elements.

Analysis: The Market Rate Buildings 1 and 2 are a maximum of 80 feet in height with an architectural corner element reaching up to 90 feet. The Affordable Housing building is a maximum height of 70 feet in height with architectural corner elements reaching 80 feet. The project conforms with the maximum allowable heights.

Setbacks: The required and proposed setbacks are as follows:

	Required Setbacks	Project Setbacks
Market Rate Buildings 1 and 2		
Front Setback (Lick Avenue)	15 feet Minimum (25' Max. Setback)	15 feet (Max Setback met)
Side and Rear (Loop Road)	10 feet Minimum	10 feet
Affordable/Commercial Building		
Front Setback (Lick Avenue)	15 feet Minimum (25' Max Setback)	15 feet (Max Setback met)
Side Setback	10 feet Minimum	23 feet
Rear Setback	10 feet Minimum	33 feet
Minor Architectural Features	May project into a setback area by no more than 5 feet *	There are no projections of minor architectural features
Minor Building Projections	May project into a setback area by no more than 5 feet *	There are no minor building projections

**Per PDC18-025: Minor architectural features, such as awnings, eaves, canopies, etc. may project into any setback area by no more than five feet for a horizontal distance not to exceed 10 feet in length. The combined length of the projections shall be limited to no more than 20% of the building elevation length. Minor building projections, such as bay windows and balconies, may project into any setback area by no more than five feet for a horizontal distance not to exceed 15ft. The combined length of all projections shall not exceed 20% of the building elevation length.*

Analysis: The project conforms to the required setbacks and maximum architectural projections.

Allowed Uses:

- Multi-family residential units with a density from 62 to 95 dwelling units per acre.
- Permitted uses of the R-M Multiple Residence Zoning District, as amended per SJMC Title 20.
- Special, Conditional, and Administrative uses of the R-M Multiple Residence Zoning District, as amended, with issuance of a Planned Development Permit authorizing the specific use or uses.
- Permitted, Special, Conditional, and Administrative use of the CP Commercial Pedestrian Zoning District, with issuance of a Planned Development Permit authorizing the specific use or uses, and up to 3,000 square feet of childcare or commercial.

Analysis: The project will develop a total of 569 residential units (Option A) or 555 residential units (Option B) in three buildings and the density is 92.8 DU/AC and 90.5 DU/AC respectively. The proposed residential use is allowed under the RM Districts. The Affordable Housing Building will include 3,000-sf of child day care or commercial uses on the ground floor and these uses are allowed subject to the issuance of this Planned Development Permit.

Off Street Parking Requirements:

Residential Uses	
Studios	1.25 per unit
1 bedroom	1.25 per unit
2 bedroom	1.7 per unit
3 bedroom	2.0 per unit
Commercial	
Vehicle parking for commercial uses shall be 1 space per 600 square feet because parking demand for the commercial component will be greatly reduced as it will cater primarily to residents of the project and transit users in the immediate vicinity.	
Bicycle Parking Requirements	
Per Chapter 20.90 of the San José Municipal Code (Title 20—Zoning Ordinance), as may be amended in the future.	

Analysis: Based on the table above, the Option A project would be required to provide 795 parking spaces and the Option B project would be required to provide 780 spaces for all residents and users of the commercial space. However, pursuant to PDC18-025, a twenty-percent reduction is allowable under [Section 20.90.200](#) of the Zoning Ordinance as the project is within 2,000 feet of a commuter rail station. Both the Option A and Option B market-rate component will implement Transportation Demand Management (TDM) measures that provide incentives and services to encourage alternatives to personal motorized vehicle-trips. This allows an additional five percent reduction in the parking requirements above the 20 percent noted above. With the 25 percent reduction in parking requirements, the Option A project will be required to provide 597 parking spaces consisting of 219 spaces for the Market Rate Building 1, 215 spaces for Building 2 and 163 spaces for the Affordable/Commercial building. This includes five required spaces for the commercial portion of the building. As proposed, the project meets these standards by providing 227 spaces for Market Rate Building 1, 223 for Building 2 and 165 for the Affordable/Commercial building. These spaces will be provided in one large shared two-level parking garage beneath the market rate buildings and a separate two-level parking garage beneath the affordable/commercial building. With the 25 percent reduction, the Option B project will be required to provide 585 parking spaces, consisting of 214 spaces for the Market Rate Building 1, 208 for Building 2 and the same number of spaces for the affordable building as it remains the same in terms of unit count. As proposed, the project provides 222 spaces for Building 1, 216 spaces for Building 2 and 165 spaces for the affordable/commercial building.

An additional 147 spaces for VTA transit users will be included in the project. These parking spaces will be located within the shared parking garage beneath the Market Rate 1 and 2 buildings.

Pursuant to Zoning Ordinance Table 20-210, a minimum of 1 bicycle space per every 4 units is required for project (142 for Option A and 139 for Option B) and 145 bicycle spaces are provided per Sheet A1.2 of the approved plan set under both scenarios. This includes 55 bicycle spaces within the parking garage beneath Building 1, 54 beneath Building 2 and 36

spaces in the parking garage beneath the Affordable/Commercial building. This includes two bicycle parking spaces dedicated to the day care/commercial use.

Open Space Requirements:

- a. Private Open Space and Common Open Space shall be a minimum of 140 square feet combined per unit on average.
- b. Private open space will have a minimum dimension of 5 feet in depth.

Through a Planned Development Permit, the Director may grant an exception to these standards based on site-specific constraints.

Analysis: For Option A, the project consists of 569 units and therefore requires 79,660 square feet of private and common open space.

The project will provide 81,905 sf as shown on Sheet A1.3 of the approved plan set. For Option B, the project consists of 555 units and requires 77,700 sf of open space. The project has 82,640 sf provided as shown on Sheet A1.3 of the plan set. All private open space areas scale to a minimum dimension of five feet.

6. **Residential Design Guidelines.** The project is consistent with the Residential Design Guidelines as it offers an attractive residential environment along with a viable and functional commercial use. Specifically, the project conforms to the following guidelines from Chapter 25, Mixed Use Development and Chapter 25A, Transit-Oriented Development.

Ch. 25 - Guideline A. Pedestrian Orientation. Mixed use projects should include direct and attractive pedestrian access to all nearby commercial area, transit stops, and transit stations. Sidewalks and walkways should be wide, separated from conflicting activities and bordered by attractive landscaping, most importantly by street and/or shade trees.

Ch. 25 - Guideline F. Relationship to the Street. Active connections between buildings and the street, for example residential and retail entries, porches, stairs, decks, courtyard, and windows should be maximized.

Analysis: The project will provide 10-foot wide sidewalks with tree wells along Lick Avenue, with 8-foot sidewalks along the Loop Road in front of the Affordable Housing/Commercial building. Sidewalk widths vary throughout the development (from 5-feet to 12-feet) and flair out to a greater width in front of building entrances, including a 12-foot sidewalk in front of the child day care/commercial space. The private landscaped paseo provides an active connection between the two market rate buildings that leads to a well-landscaped sidewalk along the Loop Road and presents an inviting pedestrian connection to the Transit Station plaza area which is richly landscaped.

Ch. 25 - Guideline G. Building & Site Design, Vertical Mixed Use. The design of mixed-use buildings requires special care to accommodate and reflect the diverse uses; to visually integrate the whole; and to present an appropriately urban facade to the street and the design of building facades should be balanced, harmonious and pleasing to the eye. Large boxy buildings with little or no decoration are not appropriate, but neither are overly decorated and overly articulated buildings that have a frenetic appearance.

Analysis: The exterior building design is balance, harmonious and pleasing to the eye. The architectural style and a variety in materials and colors help reduce the massing. The active ground floor uses, such as the commercial space and community rooms, reflect an appropriate urban façade. The paseo lends to a more urban feel and connects pedestrians to the development.

Ch. 25A - Guideline F. Private, Common, and Public Spaces. TOD should include amenity-rich public gathering spaces that reinforce a sense of neighborhood. Such spaces should be located near transit and principal pedestrian routes and should be design for recreation and organized community activities.

Analysis: The large social plaza adjacent to the VTA Station is designed for place-making and flexibility. Oak trees are planted in raised Mediterranean-inspired planters to provide shade to plaza users. An open central plaza includes benches with armrests around the edge of the site. The raised planters offer additional seating. A staircase along the property line allows for the plaza to remain high and visible from the loop road, with enhanced lighting to provide safety at night. Safe sight lines are present into the station as users approach the light rail. Pedestrian mobility is given priority throughout the development and enhanced crosswalks with decorative patterns add to the ambiance and safety as users traverse the site and enter areas shared with vehicles.

7. **Environmental Review.** A Determination of Consistency with the Tamien Station Transit-Oriented Development Project was made for both the Option A and Option B projects. The environmental impacts of this project were addressed in the *Tamien Station Transit-Oriented Development, PDC18-025 Initial Study and Mitigated Negative Declaration* circulated from March 9, 2020 through April 7, 2020 and adopted on June 9, 2020. The Initial Study analyzed the proposed project and its environmental setting, identified potentially significant environmental impacts, and proposed mitigation measures to reduce significant impacts to less than significant levels.
8. **Planned Development Permit Findings.** Chapter 20.100 of Title 20 of the San José Municipal Code establishes required findings for issuance of a Planned Development Permit:
 - a. The Planned Development Permit, as issued, furthers the policies of the General Plan and is consistent with the site's Envision San José 2040 General Plan Land Use / Transportation Diagram designation of Urban Residential.

Analysis: The project is a mixed-use development with 569 affordable units (Option A) and 555 affordable units (Option B), each along with 3,000-sf of ground floor child day care/commercial uses. The project conforms to General Plan goals and policies such as Goal H-1 which addresses social equity and diversity; Housing Policy H-1.2 which addresses housing opportunity across location, type and price; Land Use Policy LU-9.2 facilitating the development of complete neighborhoods and Function Policy CD-2.10 that supports neighborhood vitality and transit ridership. The site is located in a neighborhood with single-family homes, multi-family developments and other small businesses including restaurants.
 - b. The Planned Development Permit, as issued, conforms in all respects to the Planned Development Zoning of the property.

Analysis: The project would develop with 569 residential units (Option A) or 555 residential units (Option B) and 3,000-sf of child day care/commercial, ground floor uses. The project conforms to the development standards of PDC18-025 as described above.

- c. The Planned Development Permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency.

Analysis: The project installed on-site signs describing the project and mailed notices for the public hearing to property owners and tenants within a radius of 1,000 feet of the project site, which is consistent with the Public Outreach City Council Policy 6-30. A community meeting was held on July 15, 2020 with approximately 35 people in attendance. Staff has been available to answer questions and take comments from interested parties.

- d. The interrelationship between the orientation, location, mass and scale of building volumes, and elevations of proposed buildings, structures and other uses on-site are appropriate, compatible and aesthetically harmonious.

Analysis: The project fronts Lick Avenue and provides pedestrian access from the sidewalk. The project design includes a complementary color scheme with varied sections which contribute to an interesting and pleasant design. Additionally, the uses were designed to maximize compatibility through the separation of entrances for the commercial and housing in the Affordable Housing/Commercial Building. The entrances to the residential buildings fronting Lick Avenue and the entrance to the commercial space from the private loop road is consistent with the Residential Design Guidelines as it promotes pedestrian activity along the street. The color schemes of the building and façade treatments soften the building's appearance from the street.

- e. The environmental impacts of the project, including, but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties.

Analysis: As described above, a Determination of Consistency with the Tamien Station Transit-Oriented Development (MND) was made. The project incorporates measures to address noise, stormwater runoff, drainage and erosion. As the project is an infill residential use that is similar to the surrounding urban and residential area, the use is compatible and expected to have limited impacts. The proposed residential and commercial uses would not create odor or unusual noise as the majority of the development's activity occurs indoors. Noise and ground vibration related to construction and demolition will be temporary, and mitigation measures will be implemented to reduce any negative effects. Best management construction practices would be implemented to reduce the construction impact on the neighborhood, as included as standard environmental conditions for the project. The project would implement site design measures, such as creating new pervious areas, adding landscaping around walkways, and directing runoff from roof, sidewalks and patios to landscaped areas, and source control measures such as use of efficient irrigation systems and storm drain labeling.

9. **Demolition Findings:** Pursuant to Section 20.80.460 of the San José Municipal Code the following criteria have been considered by the Director of Planning to determine whether the benefits of permitting the demolition of the existing building outweighs the impacts of demolition:
- a. The failure to approve the permit would result in the creation or continued existence of a nuisance, blight or dangerous condition;
 - b. The failure to approve the permit would jeopardize public health, safety or welfare;
 - c. The approval of the permit should facilitate a project which is compatible with the surrounding neighborhood.
 - d. The approval of the permit should maintain the supply of existing housing stock in the City of San José;
 - e. Both inventoried and non-inventoried buildings, sites and districts of historical significance should be preserved to the maximum extent feasible;
 - f. Rehabilitation or reuse of the existing building would not be feasible; and
 - g. The demolition, removal or relocation of the building without an approved replacement building should not have an adverse impact on the surrounding neighborhood.

Analysis: The failure to approve the demolition of the existing buildings would result in the continued existence of a nuisance and blight issue as the structures have experienced squatting and trespassing. The demolition of the existing buildings would facilitate the construction of an affordable, mixed-use residential project for both low-income and market rate renters. Re-use or rehabilitation of the buildings would not be practical given the current building codes, energy efficiency requirements, and design standards as they cannot be incorporated into the existing structures without additional significant costs to the project budget. The proposed project would demolish one 11,400 square foot building; however, it would add 135 rent-restricted, affordable units. The project site does not have inventoried buildings. The surrounding uses are a mixture of single-family and multi-family residential buildings, as well as commercial uses, and the proposed project use would be compatible with the existing uses in the area.

10. **Tree Removal Findings:** Chapter 13.32.100 of the San José Municipal Code establishes at least one of the following required findings must be made for issuance of a Tree Removal Permit for ordinance-size trees measuring 38 inches or more in circumference (12.1 inches in diameter). Findings are made for the project based on the above-stated findings related to General Plan, Zoning Ordinance and CEQA conformance and for the reasons stated below, and subject to the conditions set forth in this Permit.
- a. That the tree affected is of a size, type and condition, and is in such a location in such surroundings, that its removal would not significantly frustrate the purposes of Chapter 13.32 of the San José Municipal Code as set forth in Section 13.32.010;
 - b. That the location of the tree with respect to a proposed improvement unreasonably restricts the economic development of the parcel in question;

- c. That the condition of the tree with respect to disease, danger of falling, proximity to an existing or proposed structure, and/or interference with utility services, is such that preservation of the public health or safety requires its removal

Analysis: The project would remove 64 ordinance-sized trees and 58 non-ordinance size trees. The trees to be removed are located either within the project's building footprint or within the proposed building's excavation zone. None of the trees are native species. None of the trees to be removed could be preserved because the project must satisfy the certain densities and preservation of the trees would reconfigure the building footprint that would not be conducive to the growth envisioned in this area. Additionally, the removal of the trees would not significantly frustrate the purposes of Chapter 13.32 as they will be replaced with trees that will enhance the scenic beauty of the city. Pursuant to the project landscaping plan, a total of 230 trees will be replanted on-site. This consists of 85 15-gallon trees and 145 24-inch box-sized trees. This does not include street trees along Lick Avenue and additional trees will be planted along the sidewalk of Lick Avenue.

In accordance with the findings set forth above, a Planned Development Permit for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. The Director of Planning, Building, and Code Enforcement expressly declares that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
 - a. Acceptance of the Permit by the applicant; and
 - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically expire four years from and after the date of issuance hereof by said Director, if within such time period, a Building Permit has not been obtained or the use, if no Building Permit is required, has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the applicant's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the "Building Code" shall be made without first obtaining a Certificate of Occupancy from the Building Official, as

required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.

4. **Building Division Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, PD20-003, shall be printed on all construction plans submitted to the Building Division.
 - b. *Americans with Disabilities Act.* The Permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
 - c. *Emergency Address Card.* The project Permittee shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - d. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance begins with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
 - e. *Project Addressing Plan.* Prior to issuance of a Building Permit, the following requirements shall be met to the satisfaction of the Chief Building Official: The project Permittee shall submit an addressing plan for approval for the subject development (residential, mixed use, complex commercial or industrial). The addressing plan should include proposed street names for the streets (as referenced on an approved Vesting Tentative Map) and the type of addressing (i.e., individual street addresses as compared to unit number off of a primary street).
 - f. *Other.* Such other requirements as may be specified by the Chief Building Official.
5. **Bureau of Fire Department Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the project must comply with the 2016 California Fire Code, or as updated by the City.
6. **Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Permit by Permittee shall constitute acknowledgement of receipt of notice by Permittee that (1) no vested right to a Building Permit shall accrue as the result of the granting of this Permit when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region; (2) substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority; (3) issuance of a Building Permit to implement this Permit may be suspended, conditioned or denied where the City Manager is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system

imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region.

7. **Conformance to Plans.** The development of the site and all associated development and improvements shall conform to the approved PD20-003 plans entitled, “Plan Development Permit Alternative A for Tamien Station TOD, dated received 12/1/2020 and Plan Development Permit Alternative B for Tamien Station TOD, dated received 12/1/2020 on file with the Department of Planning, Building and Code Enforcement (“Approved Plans”) and to the San José Building Code (San José Municipal Code, Title 24), with the exception of any subsequently approved changes.
8. **Use Authorization.** Planned Development Permit to allow the demolition of one structure and the construction of 569 housing units (Option A) or 555 housing units (Option B) within three buildings (Market Rate 1 Building, Market Rate 2 Building and Affordable Housing/Commercial building). 3,000 square feet of child day care or commercial use and the removal of 64 ordinance size trees and 58 non-ordinance size trees, on 6.96 gross acres.
9. **Conformance with Approved Zoning.** All conditions of approval and required environmental mitigation measures from the previously approved Planned Development Zoning (PDC18-025) remain in effect.
10. **Planned Development District Effectuated.** This Planned Development Permit effectuates the portion of the Planned Development Zoning as reflected in the Permit’s Approved Plan Set and the corresponding legal description.
11. **Timing for Demolition.** A demolition permit may be issued for the buildings and structures indicated on the Approved Plans only upon submittal of a Public Works grading permit for the project. Any modification to this precondition shall require approval of a Major Permit Adjustment. In no case shall this precondition supersede applicable mitigation measures for the project.
12. **Timing of Tree Removals.** Trees that are proposed for removal to accommodate new development shall not be removed until the related Public Works Grading Permit has been issued.
13. **Tree Protection Standards.** The applicant shall maintain the trees and other vegetation shown to be retained in this project and as noted on the Approved Plan Set. Maintenance shall include pruning and watering as necessary and protection from construction damage. Prior to the removal of any tree on the site, all trees to be preserved shall be permanently identified by metal numbered tags. Prior to issuance of the Grading Permit or removal of any tree, all trees to be saved shall be protected by chain link fencing, or other fencing type approved by the Director of Planning. Said fencing shall be installed at the dripline of the tree in all cases and shall remain during construction. No storage of construction materials, landscape materials, vehicles or construction activities shall occur within the fenced tree protection area. Any root pruning required for construction purposes shall receive prior review and approval and shall be supervised by the consulting licensed arborist. Fencing and signage shall be maintained by the applicant to prevent disturbances during the full length of the construction period that could potentially disrupt the habitat or trees.
14. **Window Glazing.** Unless otherwise indicated on the Approved Plan, all windows shall consist of a transparent glass.

15. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City of San José.
16. **Compliance with Local, State, and Federal Laws.** The subject use shall be conducted in full compliance with all local, and, state, and federal laws.
17. **Discretionary Review.** The City maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San José Municipal Code.
18. **Recycling.** Scrap construction and demolition material shall be recycled. Integrated Waste Management staff at (408) 535-8550 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
19. **Refuse.** All trash and refuse storage areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the trash or refuse container(s). Trash areas shall be maintained in a manner to discourage illegal dumping.
20. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the Approved Plan Set.
21. **Utilities.** All new on-site telephone, electrical, and other service facilities shall be placed underground.
22. **Anti-Graffiti.** All graffiti shall be removed from buildings and wall surfaces, including job sites for projects under construction, within 48 hours of defacement.
23. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly-used areas free of litter, trash, cigarette butts, and garbage.
24. **No Sign Approval.** Any signage shown on the Approved Plan Set are conceptual only. No signs are approved at this time. Any signs shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.
25. **Building and Property Maintenance.** The property shall be maintained in good visual and functional condition. This shall include, but not be limited to, all exterior elements of the buildings such as paint, roof, paving, signs, lighting, and landscaping.
26. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
27. **Mechanical Equipment.** The location and type of mechanical equipment shall be as shown on the Approved Plans and shall be screened from view. Changes to the mechanical equipment requires the issuance of a Permit Adjustment or Amendment to the satisfaction of the Director of Planning.

28. **No Generators Approved.** This Permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code.
29. **Affordable Housing Requirements.** This Permit is subject to its Affordable Housing Compliance Plan as set forth by the Department of Housing, which includes the following conditions:
- a. The permittee must execute and record their City Affordable Housing Agreement memorializing the IHO obligations against the property and any contiguous property under common ownership and control prior to earliest of: issuance of any building permits, or approval of any parcel or final map.
 - b. Permittee must strictly comply with each requirement of the approved Affordable Housing Compliance Plan, the Affordable Housing Agreement, and any other applicable requirements of the IHO.
 - c. No building permit may be issued until the Affordable Housing Agreement is recorded against the property. No building permit may issue except consistent with the requirements of the IHO and the proposed Plan to fulfill the affordable housing obligations.
 - d. No Temporary Certificate of Occupancy, Certificate of Occupancy, or Notice of Completion for any units shall be issued until all requirements of the IHO and Affordable Housing Agreement are met.
30. **Affordable Housing Financing Plans.** The San José City Council (“City”) approved the Envision San José General Plan 2040 (“General Plan”) in 2011. The General Plan provides the framework for development located in San José.
- The City is in the process of developing financing plans to help fund affordable housing and related amenities and services. The financing plans may include the creation of a (i) Community Facilities District(s); (ii) Enhanced Infrastructure Financing District(s); (iii) Property Based Improvement District(s); (iv) Mitigation Impact Fee program(s); (v) Commercial linkage fee program(s); and/or (vi) other financing mechanisms or combination thereof. For example, the City Council has directed City staff to complete studies and make recommendations related to commercial impact fees to help fund affordable housing. These efforts are on-going and there will continue to be other similar efforts to study various funding mechanisms for affordable housing.
- By accepting this Permit including the conditions of approval set forth in this Permit, permittee acknowledges it has read and understands all of the above. Permittee further agrees that prior to the issuance of any building permit, the project shall be subject to, fully participate in, and pay any and all charges, fees, assessments, or taxes included in any City Council approved financing plans related to affordable housing, as may be amended, which may include one or more of the financing mechanisms identified above.
31. **No Extended Construction Hours.** This Permit does not allow any construction activity on a site located within 500 feet of a residential unit before 7:00 a.m. or after 7:00 p.m., Monday through Friday, or at any time on weekends.

32. **Construction Disturbance Coordinator.** Rules and regulation pertaining to all construction activities and limitations identified in this Permit, along with the name and telephone number of a Permittee-appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site.
33. **Final Map Required.** Prior to the issuance of any Building Permit, the Permittee shall secure approval and provide proof of recordation of a Final Map to remove or relocate any existing Lot Lines and public easements as shown on the Approved Plan Set.
34. **Landscaping.** Planting and irrigation are to be provided by the Permittee, as indicated, on the final Approved Plans.
35. **Irrigation Standards.** Irrigation shall be installed in accordance with Part 3 of Chapter 15.11 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping, the City of San José Landscape and Irrigation Guidelines and the Zonal Irrigation Plan in the Approved Plans. The design of the system shall be approved and stamped by a California Registered Landscape Architect.
36. **Certification.** Pursuant to San José Municipal Code, Section 15.11.1050 certificates of substantial completion for landscape and irrigation installation shall be completed by a licensed or certified professional and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
37. **Green Building Requirements.** This development is subject to the City's Green Building Ordinance for Private Sector New Construction as set for in Municipal Code Section 17.84. Prior to the issuance of any shell permits, or complete building permits, for the construction of buildings approved through the scope of this Permit, the Permittee shall pay a Green Building Refundable Deposit. In order to receive a refund of the deposit, the project must achieve the minimum requirements as set forth in Municipal Code Section 17.84. The request for the refund of the Green Building Deposit together with evidence demonstrating the achievement of the green building standards indicated in Municipal Code Section 17.84 shall be submitted within a year after the building permit expires or becomes final, unless a request for an extension is submitted to the Director of Planning, Building, and Code Enforcement in accordance with Section 17.84.305D of the Municipal Code.
38. **Conformance to MMRP.** This project shall conform to all applicable requirements of the attached Mitigation Monitoring and Reporting Program, approved for this development.
39. **Standard Environmental Conditions.**
- a. **Air Quality.** The following measures shall be implemented during all phases of construction to control dust and exhaust at the project site:
 - i. Water active construction areas at least twice daily or as often as needed to control dust emissions.
 - ii. Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
 - iii. Remove visible mud or dirt track-out onto adjacent public roads using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.

- iv. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
 - v. Pave new or improved roadways, driveways, and sidewalks as soon as possible.
 - vi. Lay building pads as soon as possible after grading unless seeding or soil binders are used.
 - vii. Replant vegetation in disturbed areas as quickly as possible.
 - viii. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
 - ix. Minimize idling times either by shutting off equipment when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.
 - x. Maintain and properly tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
 - xi. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.
- b. Biological Resources.
- i. Santa Clara Valley Habitat Plan. The project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant would be required to submit the Santa Clara Valley Habitat Plan Coverage Screening Form to the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at <https://scv-habitatagency.org>.
- c. Tree Replacement. As part of project implementation, the trees removed by the proposed project shall be replaced according to the City's required replacement ratios, as provided in Table 1 below.

Table 1: Tree Replacement Ratios				
Circumference of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 inches or more	5:1	4:1	3:1	15-gallon
19 up to 38 inches	3:1	2:1	none	15-gallon
Less than 19 inches	1:1	1:1	none	15-gallon
x:x = tree replacement to tree loss ratio				
Note: Trees greater than or equal to 38-inch circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such				

trees. For Multi-Family residential, Commercial and Industrial properties, a permit is required for removal of trees of any size.
A 38-inch tree equals 12.1 inches in diameter.
A 24-inch box tree = two 15-gallon trees
Single Family and Two-dwelling properties may be mitigated at a 1:1 ratio.

- i. 122 trees are proposed to be removed, with 64 ordinance sized trees required to be replaced at a 4:1 ratio (256 15-gallon trees), 57 non-ordinance sized trees to be replaced at a 2:1 ratio (114 15-gallon trees) and one tree replaced at a 1:1 ratio. There are no native trees on-site. The total number of replacement trees required to be planted would be 371 trees. The species of trees to be planted would be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.
 - ii. In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement, at the development permit stage.
 - 1) The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the project site, at the development permit stage.
 - 2) Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of Public Works grading permit(s), in accordance to the City Council approved Fee Resolution. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.
 - iii. Removal and replacement of street trees shall be coordinated with the Department of Transportation.
- d. Cultural Resources: The following measure shall be applied to the development of the project site to reduce and/or avoid impacts to paleontological resources:
- i. If vertebrate fossils are discovered during construction, all work on the site will stop immediately, the Director of Planning of Planning, Building and Code Enforcement (PBCE) or Director's designee shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning of Planning, Building and Code Enforcement (PBCE) or Director's designee.
- e. Geology and Soils:
- i. To avoid or minimize potential damage from seismic shaking, the project shall be constructed using standard engineering and seismic safety design techniques.

Building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The Geotechnical Report should include, but not be limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with the guidelines published by the State of California (*CGS Special Publication 117A*) and the Southern California Earthquake Center (*SCEC, 1999*). A recommended depth of 50 feet should be explored and evaluated in the investigation.

- ii. The report shall be reviewed and approved by the City of San José Department of Public Works as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code.
 - iii. All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
 - iv. Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
 - v. Ditches shall be installed to divert runoff around excavations and graded areas if necessary.
 - vi. The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.
- f. Hydrology and Water Quality
- i. Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
 - ii. Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
 - iii. All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
 - iv. Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
 - v. All trucks hauling soil, sand, and other loose materials shall be required to cover all trucks or maintain at least two feet of freeboard.

- vi. All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
 - vii. Vegetation in disturbed areas shall be replanted as quickly as possible.
 - viii. All unpaved entrances to the site shall be filled with rock to knock mud from truck tires prior to entering City streets. A tire wash system may also be employed at the request of the City.
 - ix. The project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.
 - x. A Storm Water Permit will be administered by the State Water Resources Control Board (SWRCB) Regional Water Quality Control Board (RWQCB). Prior to construction grading for the proposed land uses, the project proponent shall file an Notice of Intent (NOI) to comply with the General Permit and prepare a Stormwater Pollution Prevention Plan (SWPPP) which addresses measures that would be included in the project to minimize and control construction and post-construction runoff. Measures will include, but are not limited to, the aforementioned RWQCB BMPs.
 - xi. The SWPPP shall be posted at the project site and will be updated to reflect current site conditions.
 - xii. When construction is complete, a Notice of Termination (NOT) for the General Permit for Construction shall be filed with the SWRCB. The NOT shall document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a post-construction stormwater management plan is in place as described in the SWPPP for the site.
- g. Noise.
- i. Common outdoor uses areas should be located in shielded courtyards as proposed to maximize the acoustical shielding of transportation noise sources by the apartment buildings themselves.
 - ii. Project-specific acoustical analyses are required to confirm that interior noise levels will be reduced to 45 dBA DNL or lower. Provide sound rated windows and doors to maintain noise levels at acceptable levels. Preliminary calculations indicate that sound-rated windows and doors with a sound transmission class rating of STC 32 to 35 would be sufficient to control noise and achieve the 45 dBA DNL interior noise standard at residential facades with line-of-sight to Lick Avenue, Highway 87, and Tamien Station. The specific determination of what noise insulation treatments are necessary will be conducted on a unit-by-unit basis. Results of the analysis, including the description of the necessary noise control treatments, will be submitted to the City along with the building plans and approved prior to issuance of a building permit.

- iii. If the HST is placed on an aerial structure, noise mitigation would need to be incorporated into the HST project design. The City of San José should continue to coordinate with the California High Speed Rail Authority to ensure that HST incorporates appropriate mitigation measures.
 - iv. Building sound insulation requirements would need to include the provision of forced-air mechanical ventilation for units throughout the site, so that windows could be kept closed at the occupant's discretion to control noise.
 - h. Public Services.
 - i. The project shall conform to the City's Park Impact Ordinance and Parkland Dedication Ordinance.
40. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <http://www.sanjoseca.gov/devservices>
- a. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
 - b. **Transportation:**
 - i. A Transportation Analysis (TA) has been performed for the subject project based on a net 141 a.m. and 172 p.m. peak hour trips. See separate Traffic Memo dated 4/9/20 for additional information. The following conditions shall be implemented:
 - 1) Provide "no parking zones" immediately adjacent to the Lick Avenue driveways to ensure adequate sight distance is provided at the driveways.
 - 2) Provide short-term parking along the proposed Kiss & Ride/ residential move-in zone located closest to the north parking garage for the Child Care Center drop-off/pick-up.
 - 3) Provide white curb/time restriction passenger loading/unloading areas to address potential parking deficit for the childcare center along the loop road. The location of the on-site passenger loading/unloading areas will be determined by City Staff during implementation
 - c. **Grading/Geology:**
 - i. A grading permit is required prior to the issuance of a Public Works Clearance.
 - ii. All on-site storm drainage conveyance facilities and earth retaining structures 4 foot in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works

- grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the latest California Plumbing Code as adopted under the City of San José Municipal Code Section 24.04.100 or submit a stamped and signed engineered design alternative for Public Works discretionary approval and must be designed to convey a 10-year storm event.
- iii. If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
 - iv. Because this project involves a land disturbance of more than one acre, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
 - v. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The report should also include, but not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.
- d. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically-sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.
 - e. **Flood:** Zone D: The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.
 - f. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
 - g. **Parks:** This residential project is subject to either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San José Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San José Municipal Code) for the dedication of land and/or payment of fees in-lieu of dedication of land for public park and/or recreational purposes under the "Formula for Dedication of Land"

and/or “Schedule of Fees and Credits” contained within in the chapter. The applicant shall comply existing agreements between the City and the VTA related to this project's parkland obligation. Any residential units that are not accounted for as part of that agreement shall meet the parkland obligation through the payment of park impact in-lieu fees. Full payment of park impact in-lieu fees is required prior to the issuance of a building permit.

- h. **Undergrounding:** The In-Lieu Undergrounding Fee shall be paid to the City for all frontage adjacent to Lick Avenue prior to issuance of a Public Works Clearance. Thirteen percent (13%) of the base fee in place at the time of payment will be due. Currently, the 2020 base fee is \$515 per linear foot of frontage and is subject to change every January 31st based on the Engineering News Record’s City Average Cost Index for the previous year. The project will be required to pay the current rate in effect at the time the Public Works Clearance is issued. The Director of Public Works may, at his discretion, allow the developer to perform the actual undergrounding of all off-site utility facilities fronting the project adjacent to Lick Avenue. Developer shall submit copies of executed utility agreements to Public Works prior to the issuance of a Public Works Clearance.
- i. **Street Improvements:**
 - i. Construct curb, gutter, and 10’ wide attached sidewalk with 4’ x 5’ tree wells behind back of curb along Lick Avenue project frontage.
 - ii. Construct two (2) 26’ wide modified driveways at the Loop Road entrances as required by the Director of Public Works and two (2) 24’ wide City Standard driveways along Lick Avenue project frontage.
 - iii. Construct City standard wheelchair ramps along Lick Avenue project frontage and on the receiving end of the project frontage.
 - iv. Construct raised crosswalks as part of the bulb-out improvements at the Lick Avenue/northerly Loop Road entrance driveway and the Lick Avenue/southerly Loop Road entrance driveway.
 - v. Construct attached bulb-outs and provide 12’ wide raised crosswalks at both the Lick Avenue/ Floyd Street intersection and the Lick Avenue/Humboldt Street intersection.
 - vi. Project shall remove the existing midblock crosswalk at the south leg of Lick Avenue/northerly Loop Road entrance driveway.
 - vii. Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
 - viii. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
 - ix. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.
- j. **Electrical:**

- i. Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
 - ii. Locate and protect existing electrical conduit in driveway and/or sidewalk construction.
 - iii. Provide clearance for electrical equipment from driveways and relocate driveway or electrolier. The minimum clearance from driveways is 10' in commercial areas and 5' in residential areas.
 - iv. Provide clearance for electroliers from overhead utilities and request clearance from utility companies. Clearance from electrolier(s) must provide a minimum of 10' from high voltage lines; 3' from secondary voltage lines; and 1' from communication lines.
 - k. **Street Trees:** The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in cut-outs at the back of curb. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.
 - l. **Referrals:** This project should be referred to High Speed Rail. Please contact Walid Khalife, Contract Manager, of the California High Speed Rail Authority, at (916) 330-5671 or walid.khalife@hsr.ca.gov or Gary Kennerly, Project Manager, of the California High-Speed Rail Program, at (510) 273-3673 or gary.kennerley@hsr.ca.gov.
41. **Revocation, Suspension, Modification.** This Planned Development Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
- a. A violation of any conditions of the Planned Development Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

APPROVED and issued on this **9th day of December, 2020.**

Rosalynn Hughey, Director
Planning, Building, and Code Enforcement

Deputy